

Notice of Allowability	Application No.	Applicant(s)	
	10/036,041	DESNOYERS ET AL	
	Examiner	Art Unit	
	Dong Jiang	1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 11/24/04.
2. ☒ The allowed claim(s) is/are 22-24, 26, and 38-45 to issue as 1-4, 7-10, 5, 11, 12 and 6, respectively.
3. ☒ The drawings filed on 26 December 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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EXAMINER'S AMENDMENT

Applicant's amendment filed on 24 November 2004 is acknowledged and entered. Following the amendment, claims 36 and 46-51 are canceled, and claims 22-26, 38 and 42-44 are amended.

Currently, claims 22-26, and 38-45 are pending and under consideration.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Marc Morley on 18 March 2005.

The application has been amended as follows:

Claim 25 has been cancelled.

In claim 22, the content has been replaced by the following:

-- 22. An isolated nucleic acid encoding a polypeptide having at least 96% amino acid sequence identity to:

(a) a polypeptide having the sequence of SEQ ID NO:2, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation; or

(b) the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 203581, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation. --

In claim 23, the content has been replaced by the following:

-- 23. An isolated nucleic acid of claim 22 encoding a polypeptide having at least 97% amino acid sequence identity to:

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(a) a polypeptide having the sequence of SEQ ID NO:2, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation; or

(b) the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 203581, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation. --

In claim 24, the content has been replaced by the following:

-- 24. An isolated nucleic acid of claim 22 encoding a polypeptide having at least 98% amino acid sequence identity to:

(a) a polypeptide having the sequence of SEQ ID NO:2, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation;

(b) a polypeptide having the sequence of SEQ ID NO:2, lacking its associated signal peptide, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation; or

(c) the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 203581, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation. --

In claim 26, the content has been replaced by the following:

-- 26. An isolated nucleic acid of claim 22 encoding a polypeptide having at least 99% amino acid sequence identity to:

(a) a polypeptide having the sequence of SEQ ID NO:2, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation;

(b) a polypeptide having the sequence of SEQ ID NO:2, lacking its associated signal peptide, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation; or

(c) the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 203581, wherein said isolated nucleic acid encodes a polypeptide having the ability to induce chondrocyte redifferentiation. --

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In claim 38, the content has been replaced by the following:

-- 38. A vector comprising the nucleic acid of claim 22, 23, 24, 26 or 42. --

Pertinent prior art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Strachan (US6,150,502) teaches a nucleic acid sequence, SEQ ID NO:203, which comprises the coding region for the present SEQ ID NO:2 with 95.93% sequence similarity, or the coding region for the present SEQ ID NO:2 lacking its associated signal peptide with 97.77% sequence similarity (see computer printout of the search results).

Conclusion:

Claims 22-24, 26, and 38-45 are allowed.

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Advisory Information:

Any inquiry concerning this communication should be directed to Dong Jiang whose telephone number is 571-272-0872. The examiner can normally be reached on Monday - Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on 571-272-0829. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Elizabeth C. Hemmer

Dong Jiang, Ph.D.
Patent Examiner
AU1646
3/18/05